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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF TEXAS

United States District Court  
Southern District of Texas

**ENTERED**

March 02, 2021

Nathan Ochsner, Clerk

Jane Doe,

Plaintiff,

*versus*

Goose Creek Consolidated Independent  
School District, *et al.*,

Defendants.

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Civil Action H-19-1516

### Opinion on Summary Judgment

I. *Background.*

On December 14, 2016, Jane Doe – a four-year-old student at Lorenzo De Zavala Elementary School – left her classroom unattended. A male student followed Jane into the bathroom, and she returned to the classroom with her pants on backwards and inside out. Her shoes were also on the wrong feet.

Jane’s parents filed a grievance and the school district opened an investigation. On February 7, 2017, Director of Student Services Araceli De La Cruz determined that the male student sexually touched Jane in the bathroom. He was moved to another classroom, but the district denied the request to send a letter to all families about the incident.

Jane’s parents appealed the investigation. On March 31, 2017, Assistant Superintendent Melissa Duarte also determined that “isolated incidents of student misbehavior” did not necessitate a communication to all school and district families.

On October 2, 2018, Jane sued the school district, the superintendent and assistant superintendent, the director of student

services, and the school principal. She said that they violated Title IX and 42 U.S.C. 1983, depriving her of educational opportunities and benefits.

This case was assigned to Judge Vanessa D. Gilmore, who dismissed it without prejudice. Rather than appeal or request reconsideration, Jane sued the defendants again without addressing the defects of her original complaint.

Jane will take nothing from the defendants.

2. *Dismissal Without Prejudice.*

Jane's original complaint was dismissed because she no data indicated that she had lost educational opportunities and benefits. She also did not identify an official policy or practice of the district's board of trustees – the only entity with final policymaking authority – that violated Title IX and 42 U.S.C. 1983.

Jane has made minor changes to her original complaint. In this case, she refers to the district's board of trustees, which “endorsed and ratified” the defendants' alleged misconduct. Jane now says that the defendants also violated the due process and equal protection requirements of the Texas Constitution.

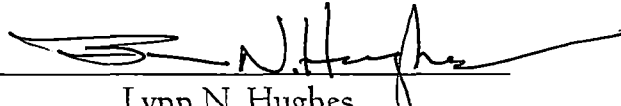
She has added claims and conclusions but, crucially, no supporting facts. Jane does not specify what the board of trustees “endorsed and ratified,” and she has not shown how the defendants' alleged misconduct was official policy or practice. She lists the applicable sections of the Texas Constitution but offers no facts to support that the defendants violated her due process and equal protection rights. In her revised edition, Jane still has offered no data indicating that she lost educational opportunities and benefits because of the assault.

The dismissal without prejudice gave Jane an opportunity to improve her original complaint with actual facts. She has not.

3. *Conclusion.*

Jane Doe will take nothing from Goose Creek Consolidated Independent School District, Randall O'Brien, Araceli De La Cruz, Melissa Duarte, and Theresa Keel. This will be a final judgment.

Signed on <sup>MARCH</sup>~~February~~ 1, 2021, at Houston, Texas.

  
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Lynn N. Hughes  
United States District Judge